Supreme Court, U. S.
FILED
JUN 5 1975
MICHAEL RODAK, JR., CLERK

No. 74-1526

In the Supreme Court of the United States

OCTOBER TERM 1974

PEOPLE OF THE STATE OF ILLINOIS EX REL. MARGARET E. THOMPSON,

Petitioner-Appellant,

Case Nos. 73-376 and 70-155 vs.

COUNTY BOARD OF SCHOOL TRUSTEES OF DU PAGE COUNTY, ILLINOIS, MERRIL GATES, EX-OFFICIO SECRETARY AND SUPERINTENDENT EDUCATIONAL SERVICE REGION, RAY PAGE, SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF ILLINOIS, BOARD OF EDUCATION, SCHOOL DISTRICT 53, BOARD OF EDUCATION, SCHOOL DISTRICT 57, COUNTY BOARD OF SUPERVISORS OF DU PAGE COUNTY, ILLINOIS AND RUTH TEST,

Respondents-Appellees.

Appeal from the Appellate Court of Illinois, Second District

STATEMENT AS TO JURISDICTION

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7/15/74

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No.

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COUNTY BOARD OF SCHOOL TRUSTEES OF DU PAGE COUNTY, ILLINOIS, MERRIL GATES, EX-OFFICIO SECRETARY AND SUPERINTENDENT EDUCATIONAL SERVICE REGION, RAY PAGE, SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF ILLINOIS, BOARD OF EDUCATION, SCHOOL DISTRICT 53, BOARD OF EDUCATION, SCHOOL DISTRICT 57, COUNTY BOARD OF SUPERVISORS OF DU PAGE COUNTY, ILLINOIS AND RUTH TEST,
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STATEMENT AS TO JURISDICTION

The Appellant, pursuant to United States Supreme Court Rules 13(2) and 15, files this her statement of the

basis upon which it is contended that the Supreme Court of the United States has jurisdiction on a direct appeal to review the final judgment of the validity of the organization of Unit School District 201; the validity of the construction given the Administrative Review Act and the School Code; the validity of the rules, policies and procedures of the Illinois Courts in question, as well as the calling into question the constitutionality of 28 U.S.C. 1257 (1), (2) & (3) by the Appellate Court of Illinois, Second District's refusing to furnish a certified copy of its final judgment for this appeal; 1 Statute at Large 85, wherein appellant was denied the right to plead and manage her own cause personally, and should exercise such jurisdiction in this case.

OPINIONS AND JUDGMENTS BELOW

A copy of the opinion of the Appellate Court of Illinois, Second District, ..., App.3rd ..... appears in Appendix H, infra, P. 1.

There is no final judgment available on the above opinion.

A copy of the final judgment of the Supreme Court of Illinois denying leave to appeal, certification denied, appears in Appendix H, infra, P. 5.

A copy of the judgment of the Supreme Court of Illinois denying a recommendation appears in App. H, infra, P. 6.

Copies of the trial court judgments appealed appear in Appendix H, infra, PP. 7-9.

A copy of the Appellate Court Mandate filed in the trial court on September 10, 1970 dismissing a prior appeal on the same case, App. Ct. No. 70-155 appears in Appendix H. infra, P. 9, 10.

A copy of the trial court order appealed in above Case No. 70-155 appears in Appendix H, infra, P. 11,12.

A copy of the final judgment of the County Board of School Trustees appears in Appendix K, infra, P. 13, 14, 15.

A copy of this Circuit final judgment, unexecuted, on the ownership of the territory in question, *Miller* v. *Fairfield, et al.,* No. 65-2188-G, appears in Appendix, M, infra, P. 16, 25.

The opinion of the Appellate Court of Illinois, Second District in related prior case, *Thompson* v. *County Board of School Trustees, et al.,* reported, 265 N.E.2d, 168 (Case No. 71-235 in this court certiorari denied October 18, 1971) appears in Appendix M, infra, P. 27.

JURISDICTION

The appeal herein is from a final judgment made and entered by the Appellate Court of Illinois, Second District, Justices Thomas J. Moran, William L. Guild, Glenn K. Seidenfeld, L. L. Rechenmacher, Allen L. Strouder, Jay J. Alloy, Peyton H. Kunce, Clerk Loren J. Strotz, Elgin, Illinois 60120, constituted under the Judiciary Article of the 1870 Illinois Constitution as amended effective January 1, 1964 and reconstituted under the Judiciary Article of the 1970 Illinois Constitution wherein the Appellate Court affirmed the judgment of the Circuit Court of the 18th Judi-

cial Circuit made and entered as to fewer than all parties and claims pursuant to Chapter 110A, Section 304(a), Ill. Rev. Stat., granting defendant Unit School District 201's Motion to Dismiss Plaintiff's Complaint for Administrative Review filed pursuant to Chapter 122, Section 7-7, Ill. Rev. Stat., under the guise of granting plaintiff's prayer for relief, vacating orders of the County Board of School Trustees made and entered pursuant to Chapter 122, Section 7-6, Ill. Rev. Stat. granting a boundary change between elementary Districts 53 and 57 wherein the territory in question was under litigation as to ownership and held in the jurisdiction of the Circuit Court, *Miller* v. *Fairfield, et al.*, No. 65-2188 G., App. M, infra, P. 16-25, holding that the validity of the organization of Unit District 201 organized under Chapter 122 Section 11-6, Ill Rev. Stat. 1971, would need to be questioned in a quo warranto proceeding without stating the statute being construed, overruling the provisions of the Administrative Review Act, failing and refusing to rule on the validity of the laws in question so that District 201 could again petition for the same boundary change without disclosing the ownership of the territory in question, held in a secret land trust, by allowing the statutes of limitation to run.

Only the opinion in the above judgment is filed. The judgment is not filed, and not available for this appeal, nor was the prior judgment of the Appellate Court made and entered on August 7, 1970, dismissing Appellant's appeal on the Appellate court's own motion when all of the defendants were in default, Case No. 75-155, appealed to this court in 71-235, certiorari denied October 18, 1971, ever filed in the Appellate Court and made available for an appeal calling into question the validity of 28 U.S.C. 1257 Sections (1), (2) & (3) giving a direct appeal under 28 U.S.C. 2403.

This is an administrative review proceeding questioning the validity of the rules practices and policies of the Illinois Courts, the application of the Administrative Review Act, as adopted by the School Code, the validity of Unit District 201; the validity of Chapter 122, Sections 7-6 and 11-6 Ill. Rev. Stat. 1971 and 11-6 as amended 1973; the validity of the opinion of the Appellate Court in *Thompson* v. *County Board of School Trustees,* 265 N.E. 2d 168 on the grounds that appellant was denied freedom of speech and petition; a trial with all convenient speed; judicial proceedings pursuant to the course of the common law; the right to confront the beneficiaries under the secret land trust; the right to know the findings of fact and propositions of law upon which the judgments were made; the right to injunctive relief to prevent a recurrence; the right to damages and costs both actual and punitive, contrary to the first, fifth and fourteenth amendments to the federal constitution calling into question the validity of the Northwest Ordinance of 1787, the Judiciary Act of 1789, 1 Statute at Large 85, as well as 28 U.S.C. 1257, affecting the public interest, giving a direct appeal to this court under 28 U.S.C. 2403, and possibly 28 U.S.C. 1257 (1), (2) and (3) if this Court orders the Appellate Court to file and furnish its judgment. The date of the final judgment of the Appellate Court of Illinois sought to be reviewed is September 13, 1974. The final judgment is not filed nor available for appeal, however, the opinion of the Appellate Court is published, filed, and is questionable as to its validity. The date of the judgment of the Appellate Court of Illinois, Second District, dismissing the first appeal in case Number 70-155 is August 7, 1970, but has never been filed in that court.

There was no petition for a rehearing.

Petition for leave to appeal was denied by the Illinois Supreme Court on January 29, 1975, Petition for appeal as a Matter of Right was ignored. A motion for a reconsideration of the denial of leave to appeal and reassessment of damages and costs in favor of Appellant was denied by the Illinois Supreme Court on March 12, 1975.

The uncertified and unfiled mandate of the Illinois Supreme Court was stayed on February 18, 1975 for this appeal, there being no Appellate Court Judgment to stay; there is no stay on enforcement of the Circuit Court final judgment appealed. Butler School District 53 found in default by the Du Page Circuit Court is involved in litigation to form a Unit District which also excludes the territory herein, *Gravelle et al.* v. *Gates, et al.,* now being briefed in the Illinois Supreme Court, Case No. 47320, the State Superintendent of Public Instruction, succeeded by the State Board of Education on January 13, 1975, was also found in default by the Du Page County Circuit Court, May 31, 1973 (R. C-80), Appendix H, infra, P. 7.

The Mandate of the United States Supreme Court issued in case number 71-235 is to the best of appellant's belief and knowledge in the Illinois Supreme Court, the Appellate Court of Illinois, Second District, was not notified of the decision.

Notice of Appeal was filed in the Appellate Court of Illinois, Second District, Elgin, Illinois 60120, on May 21, 1975. A certified copy of the Notice of Appeal as filed appears in Appendix P., infra, P. 31-33. The Supreme Court of the United States has jurisdiction to review by direct appeal the judgment complained of by 28 U.S.C. 1257 (1) and (2) and 28 U.S.C. 2403. The Appellate Court did not notify the Attorney General.

The following decisions are believed to sustain the jurisdiction of the United States Supreme Court to review the decisions on a direct appeal in this case: *Cohens* v. *Virginia,* 6 Wheaton 264; *Morgan* v. *United States,* 80 L.Ed. 1288, 82 L.Ed. 1129; *Marbury* v. *Madison,* 1 Cranch 137; *Bridges* v. *California,* 86 L.Ed. 192; *United States* v. *Indrelunas,* ..... U.S. ....., No. 72-805, April 1973; ***Bradley*** v. *Richmond School Board,* ..... U.S. ....., May 15, 1974; *Norton* v. *Shelby County,* 118 U.S. 425; *Reynolds* v. *United States,* 98 U.S. 145.

Additional Grounds of Jurisdiction

The Appellant also contends that the judgment is founded on other errors, which though they involve questions not subject to review by this court on appeal, nevertheless deprived the Appellant of a fair hearing and constituted a denial of due process of law and a denial of equal protection of the laws in violation of the First, Fifth and Fourteenth Amendments to the federal constitution. These errors are included in the statement of questions presented by the appeal, hereinafter set forth. If these were the only errors complained of, the Appellant would be limited to a petition for a writ of certiorari, under 28 U.S.C. 1257(3). They are included in this appeal under the authority of *Prudential Insurance Co.* v. *Check,* 259 U.S. 530, 547, and *Flournoy* v. *Wiener,* 321 U.S. 253, 263.

The Statutes of the United States that are involved are: The Judiciary Act of 1789, Section 35, 1 Statute at Large 85, which provides in part: That in all courts in the United States, the parties may plead and manage their own causes personally. . . .

28 U.S.C. 1257 (1), (2) and (3) and 28 U.S.C. 2403 provides in the pertinent part:

> "that whenever the constitutionality of an Act of Congress affecting the public interest is drawn in question in any court of the United States in any suit or proceeding to which the United States, or any agency thereof . . . is not a party, the court having jurisdiction of the suit or proceeding shall certify such fact to the Attorney General. . . ."

The Northwest Ordinance of 1787, Article 2 which provides in part:

> "The inhabitants of said territory shall always be entitled to the benefits of—judicial proceedings according to the course of the common law." . . .

And Article 5, which provides:

> "The constitution and government so formed shall be republican and in conformity to the principles contained in these Articles."

The statutes of the State of Illinois that are involved are: The School Code, Ch. 122, sections 1 et seq., the Administrative Review Act of 1945 as amended, Chapter 110, Sections 264-279 Ill. Rev. Stat.; the 1870 and 1970 Constitutions of the State of Illinois. The particular pertinent parts of the Administrative Review Act and the School Code appear in Case No. 71-235, Appendix A, PP. 1 to 12. Appellant requests an out of time rehearing and a consolidation with this case which is simply a continuation. The substitution of Unit District 201 adds Chap. 122, Section 11-6 Ill. Rev. Stat 1971 wherein the pertinent parts provide:

11-6 ante amended by P.A. 598 Sec. 1:

effective July 31, 1971

> "Any contiguous and compact territory, no part of which is included within any community unit school district, or other unit district" . . .
>
> "A petition shall be filed with the regional superintendent of the region containing the greater percent of the assessed valuation of the proposed district than is contained in any other region in which assessed valuation of the proposed district is situated, signed by 200 or more voters residing within the territory. . . ."
>
> "The regional superintendent shall hear evidence as to the school needs and conditions of the territory and in the area within and adjacent thereto and take into consideration the division of funds and assets which will result from the organization of the district. . . . The decision of the regional superintendent is an "administrative decision" as defined in Section 1 of the "Administrative Review Act." . . . The commencement of any action for review shall act as a supersedeas, and no election shall be had pending final disposition of such review. . . ."

11-6 Post, P.A. 77-604, effective July 31, 1971. Wherein the pertinent part provides:

> "A decision of the regional superintendent denying the petition is an "administrative decision" as defined in Section 1 of the "Administrative Review Act", and any petitioner or resident who appears in support of the petition at the hearing may apply for a review of such decision in accordance with the "Administrative Review Act". . . .

Chapter 122, Section 11-6, Ill. Rev. Stat., 1973, which provides in the pertinent part:

> "A decision of the regional superintendent or Superintendent of Public Instruction denying or approving

the petition, whether made prior or subsequent to the effective date of this Act, shall be a final decision, from which no review shall be had or taken. However, this amendatory Act of 1973 shall not be construed to affect applications for review which were perfected pursuant to the provisions of the "Administrative Review Act" before the effective date of this Act." eff. October 1, 1973.

The pertinent parts of the Illinois Constitutions of 1870 and 1970 are:

The Judiciary Articles of both constitutions wherein the Illinois Supreme Court is given power to legislate rules and regulations that supersede the practice rules and regulations passed by the sovereign people in the General Assembly; Article 2 Section 2, of the 1970 constitution which establishes sovereignty in the State government; Article VII, Section 10 of the 1970 Illinois Constitution which provides:

Section 10. Intergovernmental Cooperation

(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations and corporations in any manner not prohibited by law or ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

(b) Officers and employees of units of local government and school districts may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions.

(c) The State shall encourage intergovernmental cooperation and use its technical and financial resources to assist intergovernmental activities.

• • •

(explanation given)

This section is new. It permits governments at all levels to cooperate in working out common problems. Thus one local government can contract with another government or private parties to share services and divide the costs equitably.

Article X, Section 1.

"The State has primary responsibility for financing the system of public education."

"The General Assembly shall provide a thorough and efficient system of free schools". . . .

Appellant has petitioned and appealed constantly to this court, trying to get access to the Illinois Courts for relief in case numbers 71-234, 71-235, 71-398, 71-761 71-1660, 73-1890 and now 74-1347 docketed on April 25, 1975, which contains some of the same questions as this case.

QUESTIONS PRESENTED

(1) Whether the Illinois Appellate Court as well as the Du Page County Circuit Court have called into question the constitutionality of the Judiciary Act of 1789 by denying appellant the right to plead and manage her own cause personally by granting an out of time substitution of a defendant and an out of time motion to dismiss the complaint abridging appellant's First Amendment right to free speech, access to the courts, and the right to petition for a redress of grievance.

(2) Whether the Illinois Courts have frustrated the Judiciary Act of 1789 by refusing to state what the law is and what statute is being constructed or interpreted.

(3) Whether the Appellate Court of Illinois, with the above named justices and the Supreme Court of Illinois, with its justices have invalidated 28 U.S.C. 1257 (1), (2) and (3), by refusing to file their final judgments made and entered so that they could be appended with filing date to this statement pursuant to United States Supreme Court Rules, have thereby made themselves parties to this appeal and are subject to the penalties of Chapter 116, Section 27, Ill. Rev. Stat. for refusing certified copies to Appellant.

(4) Whether the Superintendent of Educational Service Region, the State Superintendent of Public Instruction, now the State Board of Education, and the County Board of School Trustees lacked jurisdiction to file, consider and grant the Petition for calling an election to establish Unit District 201 and divide the assets of the districts involved when the petitioners were district 57 board members who were paying their private expenses out of public funds while district 57 was under litigation in this case as to the legality of its existence.

(5) Whether School District 201 is a constitutionally organized school district.

(6) If School District 201 were a valid organization, whether it had any standing in this case where it could not complete the annexation commenced by District 57.

(7) Whether the defendants are required to pay damages to appellant, both punitive and actual, costs and interests for the extreme injuries sustained by her from their involvement with the territory in question and adjacent thereto, because of the social sanctions, economic sanctions, intimidation, threats, bribes, and is entitled to

a permanent injunction against the State of Illinois and its political subdivisions from ever being threatened again.

(8) Whether the Illinois Constitution of 1970 is unconstitutional because it takes the sovereignty away from the people of the State of Illinois overruling the Northwest Ordinance of 1787.

(9) Whether the Judiciary Article of the 1870 Illinois Constitution as amended January 1, 1964, and the Judiciary Article effective July 1, 1971 of the 1970 Illinois Constitution is unconstitutional because it gives the Illinois Supreme Court the power to legislate rules and regulations that supersede practice rules and procedures enacted by the people in the General Assembly denying a republican form of government guaranteed by the Northwest Ordinance of 1787 and the federal constitution.

(10) Whether Chapter 122, Section 11-6, Ill. Rev. Stat. 1973 is unconstitutional because it denies any appeal, overruling the Northwest Ordinance of 1787 which guarantees judicial proceedings pursuant to the common law.

(11) Whether the trial court erred in not making the defendants answer the complaint and file the record of the administrative agency.

(12) Whether the trial court erred in not asking for a grand jury investigation of the secret land trust when the territory in question was in the jurisdiction of that court and the actions of the defendants in this case was to help one of the litigants gain ownership.

(13) Whether the trial court lacked jurisdiction and misapplied the Administrative Review Act by holding its Judgment final as to fewer than all claims and parties, with no reason to delay enforcement or appeal.

(14) Whether the Appellate Court is in error as to the Application of the Administrative Review Act to question the organization of district 201.

(15) Whether the trial court erred in refusing to rule on the questions of fact and law in the record.

(16) Whether Article VII, Section 10 of the 1970 Illinois Constitution is uncontsitutional because it overrules a republican form of government guaranteed by the Northwest Ordinance of 1787.

(17) Whether Chapter 122, Sections 7-6 and 11-6 Ill. Rev. Stat., 1971 are unconstitutional because they base school district organization on assessed value of land when the State is required by both constitutions to provide financing for an equal opportunity in education.

(18) Whether both the Boards of Education of school district 57 and school district 53, who have both paid their own private expenses as petitioners in forming unit school districts, are subject to the penalties of Chapter 122, Section 22-6, Ill. Rev. Stat., not only because the public funds have been diverted to their own private use, but also because a republican form of government has been destroyed, in that the school boards are the petitioners and not the residents.

(19) Whether Appellant was denied a trial with all convenient speed contrary to the provisions of the federal constitution.

(20) Whether an opinion from a reviewing court is valid without a final judgment filed and available for appeal.

(21) Whether the assignment of judges to the Appellate Court, Second District, who were not elected from the district, without the consent of the parties is repugnant to the 14th Amendment and the representatives in Congress from the Second District are thereby unseated.

STATEMENT OF THE CASE

As stated in *Thompson* v. *County Board of School Trustees, et al.,* 265 N.E.2d 168, Appendix M, *infra,* P. 27, twenty-one school districts in South Du Page County joined together to change school district organization. These school districts adopted a resolution to freeze all school boundary changes by residents including one under litigation, known as the Ginger Creek case, *Clem Stein, et al.,* v. *County Board of School Trustees et al.,* 40 Ill. 2d 477, which is a boundary change detaching a part of a wealthy subdivision, in Oak Brook, which generates more revenue than needed to support the pupils therein, from Downers Grove High School District 99 and elementary District 58 and annex it to Butler (Oak Brook) District 53 and Hinsdale High School District 86, which has been in the courts since 1965. Under the School Code Sec. 7-7, the litigation acts as a supersedeas to any further proceedings. However, in 1969 the County Board of School Trustees decided that it did not act as a supersedeas and the above boundary change was made wherein Downers Grove High School District 99 was involved in the existing Ginger Creek litigation.

With the above litigation on appeal the County Board of School Trustees granted a second boundary change between Butler District 53 and Westmont District 57 which was to eventually compensate for the loss of revenue that would be caused by the *Ginger Creek* case, wherein the territory being detached was under litigation and had been since 1965, *Millers Builders, Inc.,* v. *Fairfield Savings and Loan, et al.,* 65-2188G, Appendix M, *infra,* P. 16-25 which was a fight over ownership of 640 acres of essentially vacant land, unincorporated, county zoned, one and two acre residential. On April 6, 1970 when the County Board of School Trustees granted the petition, Appendix K, *infra,* P. 13, there was no known owner of record and the land was in a trust, Appendix, M, *infra,* P. 16.

Attached to the joint petition of District 53 and 57 was a copy of a planned unit development in a pre-annexation agreement with the Village of Westmont, wherein the territory being detached was being rezoned from two acre residential to 25 story highrises, and the developer promised District 57 a school site (R. C-68 to 72.)

I alleged at the hearing that Districts 53 and 86 were involved with options under the trust, (R. C-3, pars. (d) & (e)) as well as other governmental agencies; that the title to all school property was required to be in the name of the County Board of School Trustees. The first place in the pleadings that Section 7-6 was alleged unconstitutional in this case is (R. C-2, Par. 1) in the Complaint filed on May 14, 1970. In the same paragraph I alleged that the boundary change in support of the zoning change placed our property in danger of condemnation.

I have since been credibly informed and verily believe that the State of Illinois promised the Atomic Energy Commission a right of way from Lake Michigan to the National accelerator Laboratory but passed no legislation for acquiring the land, and for the past 15 or 20 years first one taxing district then another has tried to maneuver into a position to take our land for the public good, as well as using economic and social sanctions to try to force us to leave.

On May 20, 1970, the Circuit Court of the 18th Judicial Circuit, Judge William L. Guild presiding, refused to hear my motion to remand the case back to the administrative agency with instructions to comply with the law or in the alternative give me court orders to discover who the beneficiaries were under the secret land trust holding the territory being detached. And on June 23, 1970, with all defendants in default, the same Judge Guild granted a motion

by the State's Attorney to give Merrill Gates as a private individual and County Board of Supervisors 30 days to answer or otherwise plead, (R. C-25), App. H, *infra,* P. 11, 12, from chambers, so there is no record, when the Assistant State's Attorney, A. E. Botti, who tried to take the matter before a grand jury on May 20, 1970 and failed and quit the case. There have been repeated bribe offers and threats during the entire time. I do not think it necessary to repeat them here. The case was appealed to the Appellate Court of Illinois, Second District, because I could not get the records from the County Board of School Trustees for a judicial review, it was dismissed on that court's own motion without briefing on August 7, 1970, the Judgment was withheld until time for appeal had passed and filed in the trial court on September 10, 1970. I waited 30 days for Merrill Gates to answer and when he did not I asked for a Judgment on the pleadings and a default of defendants in October 1970, and was ordered by Judge Philip Locke to file a brief on the constitutionality of the statutes involved, which was filed in November 1970.

The defendants had 21 days to answer and did not. On December 18, 1970 the Appellate Court filed its opinion on the first case, Appendix M, *infra,* P. 27, again withholding its judgment, both cases were then appealed to the Illinois Supreme Court and on to the United States Supreme Court as Case number 71-235, wherein certiorari was denied on October 18, 1971.

The defendants did not wait for the United States Supreme Court's Mandate to issue, a third petition which had been filed in July of 1971 by the board members of District 57 as private individuals, paying their private expenses out of the school funds, was heard and granted by

the Superintendent of Educational Service Region and the State Superintendent of Public Instruction, under sections 11-6, 1971, supra, with the State Superintendent, a defendant in this case, giving the legal opinion that this case did not act as a supersedeas, an election was held within the territory and Unit District 201, consisting of parts of High School District 86 and 99 and elementary district 181 and 57, was organized; the two high school Districts are still involved in the Ginger Creek litigation. After July 2, 1972 the County Board of School Trustees decided on the division of assets which should have been decided by Merrill Gates prior to the granting of the petition and District 86, wherein I reside was ordered to pay Unit District 201 one million dollars, and sold bonds to do so without a referendum.

Unit District 201 does not consist of any part of the territory in this case, but they want it. In March and April of 1973 the attorney for 201 threatened me on the telephone, I was asked to withdraw the complaint and refused. District 201 now has not one but two school sites, a forty acre high school site, placed in a strategic position for an excuse for condemnation. The territory in question in this case is not only in District 53 it is also in District 86, and cannot be annexed to 201 in this action.

On April 12, 1973 I filed a motion to default the defendants and hear the complaint alleging a conspiracy to obstruct justice setting May 31 for presentation to the court. On May 22, 1973, John Demling, attorney for District 57, the petitioners for forming the Unit District and the Unit District as well as the alleged owner of the territory in question, mailed a motion to substitute parties and a "Motion" called a Motion to Dismiss (R. C-75) and feigns to be a motion to grant my prayer for relief (R. C-76.) On

May 31, 1973, the trial court allowed the motions to be filed, substituted district 201 for district 57 and found district 53 and the State Superintendent in default. On page (R. C-82) is alleged a conspiracy again; Par. 4, the overruling of the Northwest Ordinance of 1787; (R. C-83), Par. 9, the validity of section 11-6 and District 201; Par. 12, the validity of the 1970 Illinois Constitution, and par. 22 (R. C-86), raises the constitutionality of Art. VII Sec. 10, 1970 Illinois Constitution; and, District 53 paying the private expenses of its board members to form a Unit District, denied by the Regional Superintendent and before the same Judge Locke at the same time as this case, *Gravelle* v. *Gates,* No. 73-1085, now being briefed in the Illinois Supreme Court, number 47320, wherein State Senator Harris Fawell is the attorney for the petitioners being paid out of school funds and at the same time introduced the legislation passed as 11-6, supra, effective October 1, 1973 denying any appeal from the final decision.

On PP. 33 and 34, of the transcript, issue of the defendants paying damages is raised:

> "The Court: I don't know where the money is going to come from." Was raised on Appellant's Brief in the Appellate Court ". . . the school districts can levy a tax to pay off judgments had against them. . . ." and in the Illinois Supreme Court, Petition for Leave to Appeal, Page 2, Point 14. and on a Motion for reconsideration, Illinois Supreme Court, "Page 1, Chapter 122, Sec. 22-3, Illinois Revised Statutes." The Illinois Supreme Court judgment, uncertified and no file date, assesses costs against me for respondents when that court requested a five dollar fee from me because there were no respondents in that court.

On page 2 of the same motion, denied on March 12, 1975, I informed the court and the State how to put a stop to what defendants call a war:

> "for four million dollars in punitive damages and costs plus interest plus a permanent injunction against further harrassment by local governments, I will consider leasing the State for fifty thousand dollars a year the necessary right of way. . . ."

Appellants' Brief, P. 35, App. Ct.:

> "The trial court erred in refusing to decide the validity of certain sections of the School Code and the Constitution as raised by plaintiff."

And on P. 23, Par. 4:

> "Plaintiff contends that School District 201 is not a valid district. . . ."

And on P. 42 the Validity of judgment as to fewer than all claims is argued.

The Appellate Court opinion applies sec. 11-6, 1973 without identifying the statute.

The Questions Presented are Substantial

A. The Constitutional Questions

On P. 55 of the report of proceedings of June 19, 1973, after three years of attempts on my part to get the records of the County Board of School Trustees for a judicial review in this case, the trial court ruled that I would have to go back and start over again on another successive petition:

> Mrs. Thompson: Well, administrative review is supposed to extend to all questions of law and fact in the record so you don't have to keep coming back here with one question at a time.
>
> The Court: What are you talking about?
>
> Mrs. Thompson: There are lots of questions unanswered in the—my complaint for administrative review. For one thing, I have alleged that Section 7-6 is unconstitutional. I haven't been heard on that point. When I go back before them I have to go back and argue it is unconstitutional and come back here and argue?
>
> The Court: That is exactly what you have to do.

How can the Appellate Court find that all dispute has been removed when the overwhelming evidence in the record shows to the contrary:

> The Court: Don't tell me what you do or don't. I'm the one who calls the shots here. Now prepare your order granting your motion.
>
> Mrs. Thompson: I cannot be forced to prepare an order against myself.
>
> The Court: That's right. You cannot be forced to do that and the thing will stand in status quo until such time as opposing counsel notices you in to court for the entry of an order in keeping with the court's decision.
>
> Mr. Demling: If the court please, I would like to get rid of this once and for all and I would ask permission to prepare the order granting the Plaintiff the prayer of her complaint first of all finding that the County Board of School Trustees did not have jurisdiction.
>
> Secondly, granting the prayer of plaintiff's complaint and have a final appealable order so we can get moving on the next petition.

There can be no doubt that the Circuit Court knew what it was doing and that the action was fraudulent: (P. 34 Report of Proceedings.)

> Mrs. Thompson: I had a motion to set a date for a hearing.
>
> The Court: I know you did, but we must take this in an orderly manner. You can't have a hearing until we take care of these other motions which are collateral.
>
> The first thing would be the motion for a substitution of parties filed by Mr. Eckhardt, which motion will be granted so that we have the proper parties in the action.

Now do you want time to answer his motion?
Mrs. Thompson: Do I want time to answer Mr.—
The Court: Yes. Mr. Eckhardt's motion, now—
Mrs. Thompson: Well, if I—
The Court: —for dismissal.

And, on p. 53 on June 19, 1973:

Mrs. Thompson: They ask that you dismiss my complaint.
The Court: I haven't heard that.
Mrs. Thompson: You weren't listening then.
The Court: One more crack like that from you and I am going to remand you to the custody of the bailiff to spend a little time at the Wheaton Hilton (jail).
Now, remember, you must uphold the dignity of this court, and don't tell me things like that because I won't stand for it.
Mrs. Thompson: That the motion is evidence of a conspiracy.
The Court: There is no conspiracy.
Mrs. Thompson: To do any act with intent to prevent the course of justice or effect with a corrupt intent—
The Court: There is no corrupt intent.

That the constitutional questions in this case are substantial and need the attention of this court is self evident. I have been completely denied the right to plead and manage my own cause; I did not need a school district which in no way can be valid, *Norton* v. *Shelby County, supra,* to plead my cause for me; and for both the Appellate Court and Supreme Court of Illinois to deny their final judgments for appeal is completely intolerable. We have no government in Illinois, everything is run by lawyers.

The Illinois legislature knew what it was doing when it passed the law against the filing of successive petitions, Ch. 122, Sec. 7-7, Ill. Rev. Stat. and the Administrative Review Act, extending the hearing to all questions of law

and fact in the record, An Appraisal of Illinois Administrative Procedures Today, Walter F. Dodd, U. of I. Law Forum, 181, 1919. The defendants were required to answer the complaint and I am supported in that contention by *Morgan,* supra.

That the school districts and others were involved in the trust in the *Miller* case has never been denied; the case is notorious and the trial court should have turned it over to a grand jury before I ever filed my first case in court; it was in the press that the counsel for both litigants were calling each other liars in court.

There is a statute of limitations involved in this case in that it was filed within the time of the *Miller* case; if my adversaries can get me out of court the time for exposing who it is that keeps the Damoclean threat of condemnation over my head will be out of my reach.

School District 53, if it succeeds in forming a unit district, could place its high school on forty acres of vacant land that abuts us on the East and we would be between two high schools half a mile apart, neither one with access to sewer.

On P. R. C-87, Par. 28, appear these words:

"28. That the state of school district organization in Du Page County is in an insufferable mess just as I alleged it would be in April of 1969; the solution is to push the State Legislature into providing an equal opportunity in education by adequate and proper financing of schools; that the only way to do this is for this court to hear the complaint, examine the method of school funding and determine the validity of the laws.
29. That the school districts are being used."

The Circuit Court held that I did not need a hearing on the complaint. The State of Illinois should not be allowed to continue basing school district organization on assessed valuation of property, and school funding on assessed value per pupil; it is no longer possible to support schools with real estate taxes.

If the petition in this case could not be filed because of the Ginger Creek case, then none of the other subsequent petitions could be filed, including district 201 and district 53 now in the Illinois Supreme Court. The trial court was without jurisdiction to enter an order as to fewer than all claims and parties.

Other Errors in the Courts Below

The Plaintiff has challenged many other rulings of the Circuit Court and the Appellate Court as well as the Illinois Supreme Court, each of which would be grounds for a reversal. These relate to (1) a denial of the administrative records; (2) the scope of the review; (3) the finding that a hearing on the complaint was not necessary; (4) the improper substitution of District 201; (5) unreasonable findings as to Plaintiff's status as a non-lawyer; (6) the finding that defendants did not damage plaintiff and did not have money to pay damages; (7) the Appellate Court denial of its final judgment; (8) the Illinois Supreme Court assessing non-existent costs, and substituting judges. Many of these errors are serious and important. I will discuss only one since this court's jurisdiction extends to every question involved in the case. *Sterling* v. *Constantin*, 287 U.S. 378, 393, 394. When the County Board of School Trustees together with the defendants have been roughing me up for twenty years, even in 1961 when we tried to petition out of district 53 to get away from the

harassment, one member of the County Board of Trustees kept turning an ashtray around with my husband's employers name on it; my husband was later told to tell his wife to shut up or else; we are both now independently self-employed and this is the only reason I have been able to stand the onslaught, then they must pay damages, both punitive and actual and costs and interest and I am entitled to a permanent injunction against the State.

District 201 is already building a high school, the building belongs to the State; the damage is done as far as I am concerned and will not be undone.

CONCLUSION

Wherefore it is respectfully submitted that this Court has jurisdiction of this appeal.

Respectfully submitted,

MARGARET E. THOMPSON
Appellant, Pro Se

APPENDIX H

73-376

UNITED STATES OF AMERICA

State of Illinois,)
Appellate Court,) ss.
Second District,)

At a session of the Appellate Court, begun and held at Elgin, on the 3rd day of December, in the year of our Lord one thousand nine hundred and seventy-three, within and for the Second District of Illinois:

Present—Honorable ALLAN L. STROUDER,
Honorable JAY J. ALLOY,
Honorable PEYTON H. KUNCE,
LOREN J. STROTZ, Clerk Pro Ten
JOSEPH C. DORING, Sheriff

BE IT REMEMBERED, that afterwards, to wit: On September 13, 1974 the Opinion of the Court was filed in the Clerk's office of said Court, in the words and figures following, viz:

No. 73-376

STATE OF ILLINOIS
APPELLATE COURT
SECOND DISTRICT

(Filed September 13, 1974)

THE PEOPLE OF THE STATE OF ILLINOIS
EX REL. MARGARET E. THOMPSON,
Plaintiff-Appellant,

vs.

COUNTY BOARD OF SCHOOL TRUSTEES OF DU PAGE COUNTY, ILLINOIS, MERRILL GATES, EX-OFFICIO SECRETARY AND SUPERINTENDENT, EDUCATIONAL SERVICE REGION, RAY PAGE, SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF ILLINOIS, BOARD OF EDUCATION, SCHOOL DISTRICT 53, BOARD OF EDUCATION, SCHOOL DISTRICT 57, COUNTY BOARD OF SUPERVISORS OF DU PAGE COUNTY, ILLINOIS AND RUTH TEST,

Defendants-Appellees.

Appeal from Circuit Court, Du Page County

Mr. Justice Kunce delivered the opinion of the court:

The Du Page County Board of School Trustees ordered annexation of territory to School District 57 and detachment from District 53 upon the joint petition of the districts. The plaintiff's pro se petition sought to set aside this order on administrative review contending that District 53 was involved in a boundary dispute and that there

were unissued bonds of the district at the time the petition was filed. Over the objection of plaintiff, the trial court granted the motion of Westmont Community Unit School District 201 for substitution as a party defendant as successor to former School District 57. District 201 conceded that the Board of Trustees' order should be vacated for the reasons alleged in plaintiff's petition for review, and the trial court accordingly set aside the Board's order. Plaintiff contends that District 201 was invalidly organized and, therefore, was improperly substituted as a party for District 57 and that additionally the trial court should have gone into the irregularities of the formation of the consolidated community unit district.

The trial court granted the precise relief requested by the plaintiff in her verified petition. It vacated and held for naught the Board's order of annexation. The defendants admitted the error of the Board's order as being untimely entered. This removed all dispute from the litigation between the plaintiff and the defendants. The issue raised by plaintiff after the matter was on review in the circuit court of the validity of the organization of District 201 was not germane to the question of the legality of the Board's annexing order. This issue was in effect a collateral attack on the organization of the district and could not be raised in an administrative review proceeding. The only proper method of attacking the validity of the organization of a school district or its board is by *quo warranto* proceedings. (*Schrodt* v. *Holsen,* 299 Ill. 247, 132 N.E. 424.) There was no error in vacating the order of the Board of School Trustees.

Accordingly, the judgment of the circuit court of Du Page County is affirmed.

Judgment affirmed.
Alloy, J., and Strouder, J., concur.

UNITED STATES OF AMERICA

State of Illinois,)
Appellate Court,) ss.
Second District,)

I, LOREN J. STROTZ, Clerk Pro Tempore of the Appellate Court, in and for said Second Judicial District of the State of Illinois, and the keeper of the Records and Seal thereof, do hereby certify that the foregoing is a true, full and complete copy of the Opinion of the said Appellate Court in the above entitled cause of record in my said office.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the said Appellate Court, in Elgin, in said State, this 13th day of September, A.D. 1974.

/s/ *Loren J. Strotz*
Clerk Pro Tempore
Appellate Court,
Second District.

UNITED STATES OF AMERICA

State of Illinois)
) ss.
Supreme Court)

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the thirteenth day of January in the year of our Lord, one thousand nine hundred and seventy-five, within and for the State of Illinois.

Present: Robert C. Underwood, *Chief Justice*
Justice Walter V. Schaefer
Justice Daniel P. Ward
Justice Joseph H. Goldenhersh
Justice Thomas E. Kluczynski
Justice Charles H. Davis
Justice Howard C. Ryan
William J. Scott, Attorney General
William G. Lyons, Marshal
Attest: Clell L. Woods, Clerk

BE IT REMEMBERED, that, to-wit: on the 29th day of January 1975, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said court, had and entered of record, to-wit:

People ex rel. Margaret E. Thompson,
Petitioner,

No. 47116 *vs.*

County Board of School Trustees of Du Page County, Illinois, Merril Gates, Ex-Officio Secretary and Superintendent, Educational Service Region, Michael Bakalis, Superintendent of Public Instruction, State of Illinois, Board of Education, School District 53, Board of Education School District 57, County Board of Supervisors of Du Page County, Illinois and Ruth Test,
Respondents.

PETITION FOR LEAVE TO APPEAL FROM
APPELLATE COURT SECOND DISTRICT
73-376, 70-1204G

And now on this day the Court having duly considered the Petition for Leave to Appeal herein and being now fully advised of and concerning the premises, doth overrule the prayer of the petition and denies Leave to Appeal herein.

And it is further considered by the Court that the said Respondents recover of and from the said Petitioner costs by them in this behalf expended, to be taxed, and that they have execution therefor.

CLERK OF THE SUPREME COURT
(Letterhead)

Clell L. Woods, Clerk Telephone: Area Code 217

March 12, 1975

Mrs. Margaret E. Thompson
P. O. Box 133
Hinsdale, Illinois 60521

Dear Mrs. Thompson:

In Supreme Court today, in case No. 47116 entitled:

People ex rel. Margaret E.
Thompson, petitioner
vs.
County Board of School Trustees
of DuPage County, Illinois,
et al., etc., et al.,
respondents

motion by petitioner for reconsideration of the order denying petition for leave to appeal, or, in the alternative, to retax costs. Motion denied.

Very truly yours,
/s/ *Clell L. Woods*
Clerk of the Supreme Court

In The Eighteenth Judicial Circuit, Du Page County,
Wheaton, Illinois

No. 70-1204-G

(Filed May 31, 1973)

People ex rel Margaret Thompson,

Plaintiff

v.

County Board of School Trustees of Du Page County, Illinois, et al.,

Defendants

ORDER

This case coming before the Court on Plaintiff's and Westmont Community Unit School District No. 201, Du Page County, Illinois Motions, the Court having heard arguments of the parties hereto and being duly advised in the premises:

It is therefore Ordered,

1. That Butler Elementary School District No. 53, Du Page County, Illinois and Michael Bakalis, State Superintendent of Public Instruction be and are hereby, found in default.

2. That the Board of Education of Westmont Community Unit School District No. 201, Du Page County, Illinois, be and hereby is substituted as party defendant for the Board of Education of Westmont Elementary School District No. 57, Du Page County, Illinois.

3. That the parties hereto are hereby granted leave to file answers or other responsive pleadings to the Motions filed herein within fourteen days from the date hereof.

4. That this case be continued to June 19, 1973 at 10:00 A.M. for further hearing on said motions.

/s/ Philip F. Locke
Judge

Name—Tom Eckhardt
Attorney for District No. 201
Address—493 Duane
City—Glen Ellyn
Telephone—858-3130

In The Eighteenth Judicial Circuit, Du Page County, Wheaton, Illinois

No. 70-1204-G

(Filed June 19, 1973)

People ex rel Margaret Thompson
v.
County Board of School Trustees et al

ORDER

This cause coming on to be heard on motion of defendant School District 201, and the objections thereto filed by Margaret Thompson, and the parties having presented argument, the court finds:

A. That the petition between School District 53 and 57 was illegal because District 53 was involved in a boundary change that was not completed and therefore the County Board of School Trustees has no jurisdiction to consider said petition.

It is therefore ordered, adjudged and decreed that all decisions of the County Board of School Trustees in petition 70-2, and all orders entered therein be vacated and held for naught.

The court further finds that there is no just cause to delay the enforcement of a appeal from this order.

/s/ Philip F. Locke
Judge

Name—John Demling

70 155

UNITED STATES OF AMERICA

State of Illinois
Appellate Court—ss:
Second District

At a session of the Appellate Court, begun and held at Elgin, on the 1st day of December, in the year of our Lord one thousand nine hundred and sixty-nine, within and for the Second District of Illinois:

Present—Honorable Charles H. Davis, Presiding Justice
Honorable Mel Abrahamson, Justice
Honorable Thomas J. Moran, Justice
Howard K. Kellett, Clerk
Harry E. Booth, Sheriff

BE IT REMEMBERED, That, to wit: On the 7th day of August, A.D. 1970 certain proceedings were had and orders made and entered of record by said Court, among which is the following, viz:

People of the State of Illinois, Ex Rel Margaret E. Thompson, Appellant
70-155 vs.
County Board of School Trustees of DuPage County, Illinois, Merrill Gates, Ex-Officio Secretary and Superintendent, Educational Service Region, Ray Page, Superintendent of Public Instruction, State of Illinois, Board of Education, School District 53, Board of Education, School District 57, County Board of Supervisors of Du Page County, Illinois, Appellees

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Appeal from the Circuit Court of DuPage County

Now on this day come the County Board of School Trustees of DuPage County, Illinois, Merrill Gates, Ex-Officio Secretary and Superintendent, Educational Service Region, and Ray Page, Superintendent of Public Instruction, appellees, by their attorneys, and move the Court to dismiss the Notice of Appeal filed on June 24, 1970, and submit therewith suggestions in support of said motions.

And also on this day comes the People of the State of Illinois, Ex Rel Margaret E. Thompson, Pro Se, appellant, and presents to the Court her objections to the motions of said appellees to dismiss the Notice of Appeal herein, together with reasons, suggestions and points and authorities, in support of said objections.

And the Court having duly considered the motions of said appellees, the objections of appellant thereto, as well as the matters and things alleged in support of said motions and objections, and being now fully advised in the premises;

It is therefore ordered by the Court, on its own motion, that the appeal in the above entitled cause be and the same is hereby dismissed.

UNITED STATES OF AMERICA

State of Illinois,
Appellate Court,—ss.
Second District,
70-155

I, HOWARD K. KELLETT, Clerk of the Appellate Court, in and for said Second Judicial District of the State of Illinois, and the keeper of the Records and Seal thereof, do hereby certify that the foregoing is a true, full and complete certified copy of the final order of the

said Appellate Court in the above-entitled cause of record in my office.

In Testimony Whereof, I have set my hand and affixed the seal of the said Appellate Court, in Elgin, in said State, this 22d day of July, A.D. 1971.

Howard K. Kellett
Clerk Appellate Court, Second District.

State of Illinois)
) SS
County of Du Page)

In The Circuit Court Of The Eighteenth Judicial Circuit,
Du Page County, Illinois
No. 70-1204 G
(Filed June 23, 1970)

People Of The State of Illinois Ex Rel. Margaret E. Thompson,

Plaintiff,

vs.

County Board Of School Trustees Of Du Page County, Illinois, Merrill Gates, Superintendent, Educational Service Region, And Ex-Officio Secretary, Ray Page, Superintendent Of Public Instruction, State Of Illinois, Board Of Education, School District 53, Board Of Education, School District 57, County Board Of Supervisors Of Du Page County, Illinois And Ruth Test,

Defendants.

ORDER

This cause coming on to be heard on the motion of Defendant, Merrill Gates, by and through his attorney, Wil-

liam V. Hopf, State's Attorney, County of Du Page, State of Illinois, who moves this Court to extend 30 days to said Defendants, Merrill Gates and County Board of Supervisors, to answer or otherwise plead to Plaintiff's complaint, and the Court being advised in the premises.

It is hereby ordered that Defendant is granted 30 days to answer or otherwise plead to Plaintiff's complaint.

/s/ Illegible
Judge

Dated: June 22, 1970
Name—Thomas Riggs, Assistant State's Attorney
Attorney for Defendants
Address—201 Reber Street
City—Wheaton, Illinois
Telephone—682-7050

APPENDIX K

State of Illinois)
) SS
County of Du Page)

In The Matter Of Petition To Detach Territory From School District No. 53 Of Du Page County, Illinois And Annexed To School District No. 57 Of Du Page County, Illinois

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ORDER
Of the County Board of School Trustees

Now this cause having come on for hearing under the provisions of Article 7 of The School Code and by virtue of petition filed with Merrill Gates, Ex-Officio Secretary of the County Board of School Trustees of Du Page County, Illinois, on the 20th day of March, 1970; and

The said Ex-Officio Secretary of said County Board having given notice of the presentation of said petition, in writing, to each Board of all districts involved in the proposed boundary change, a true copy of said notice being hereto attached, by reference made a part of this order; and

The said Ex-Officio Secretary of said County Board having further caused a notice of the presentation of such petition to be published once at least 10 days but not more than 15 days before the hearing in the Graphic News and the Hinsdale Doings, newspapers having general circulation within the area of the territory involved in the pro-

posed change of boundaries, and the return day having been fixed in accordance with said notices on April 6, 1970 and duly held, and a meeting of the County Board of School Trustees having been called for said return day by the President thereof by giving a 48 hour written notice of the meeting, stating the time and place of the meeting and the purpose thereof and it appearing that said petition is in all respects in compliance with the law as to form and content and signatures thereon; and the Ex-Officio Secretary of said Board having submitted maps showing the districts involved, a report of financial and educational conditions of the districts involved, and the probable effects of the proposed changes to the school board affected and to members of the County Board of School Trustees not later than 5 days prior to the day upon which the hearing was held, and the Board having heard evidence as to the school needs and conditions of the territory in the area within and adjacent thereto and as to the ability of the districts to meet the standards of recognition as prescribed by the Superintendent of Public Instruction; and having taken into consideration any possible division of funds and assets which will result from the change of boundaries; and having taken into consideration whether it is to the best interests of the schools of the area and the educational welfare of the pupils that such change in boundaries be granted; and after consideration of the aforesaid; and after the said Board being fully advised in the premises;

It is Hereby Ordered, Adjudged And Decreed by the County Board of School Trustees of DuPage County, Illinois, that the petition be and it is hereby granted, and that the following territory, to-wit:

All that part of the Southwest Quarter of Section 35, Township 39 North, Range 11 East of the 3rd Principal Meridian lying West of the East Right of Way of the Robert Kingery Highway, also known as Illinois Route No. 83, in DuPage County, Illinois

be detached from School District No. 53, DuPage County, Illinois and annexed to School District No. 57, DuPage County, Illinois.

It is Further Ordered, Adjudged And Decreed that Merrill Gates, Ex-Officio Secretary of said Board, be and he is hereby authorized and directed to deliver to the Committee of Petitioners, if any, and any persons who has filed his appearance in writing at the hearing and any attorney who has appeared for any person and any objector who has testified at said hearing and the County Superintendent of Schools of such county in which the territory or any district lies, a certified copy of this Order, also make and file within thirty (30) days with the County Clerk of DuPage County a map of the districts involved.

Dated this 8th day of April, 1970.

County Board Of School Trustees
Of Du Page County, Illinois

/s/ *Robert Kimbell*
President

/s/ *Merrill Gates*
Ex-Officio Secretary

APPENDIX M

In The Circuit Court For The Eighteenth Judicial District Of Illinois, Chancery Division

No. 65-2188-G

(Filed November 4, 1969)

Miller Builders, Inc., a corporation,

Plaintiff

vs.

Fairfield Savings And Loan Association, et al.,

Defendants.

FINAL DECREE

This cause came on for trial upon plaintiff's complaint and its amended and supplemental complaint, and defendants' answers thereto. Defendant Fairfield Savings and Loan Association ("Fairfield") having withdrawn its demand for a jury, the Court heard and considered the testimony and demeanor of all of the witnesses and examined and considered all of the exhibits offered and received in evidence and the written brief filed by the parties, and heard and considered the arguments of counsel and is now fully advised in the premises.

The Court finds:

1. The Court has jurisdiction of the subject matter of this suit and of the parties hereto.

2. Plaintiff Miller Builders, Inc., ("Miller Builders") is a builder-developer. Defendant Fairfield Savings and Loan Association ("Fairfield") is a state chartered savings and loan association. Defendant Cosmopolitan National Bank of Chicago is a party defendant hereto only

in its capacity as Trustee of Trust No. 15777 and not individually.

3. The subject matter of this action is a 640+ acre parcel of real estate bordered generally by 35th Street, Route 83, Ogden Avenue and Cass Avenue in Du Page County, Illinois, formerly owned by S. A. Healy and S. A. Healy Company (hereinafter referred to as the "Healy Farm"). The legal description of the Healy Farm is:

PARCEL 1:
The South 40 feet of the Southeast quarter of Section 34 (excepting therefrom; that part conveyed by an Association of Franciscan Fathers of the State of Illinios by deed dated November 2, 1936, to S. A. Healy, and recorded as document 374528, in book of deeds 315, page 181), all in Township 39 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois.

ALSO

PARCEL 2:
The West half of the Southwest quarter of Section 35, Township 39 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois.

ALSO

PARCEL 3:
The Northeast quarter of the Southwest quarter of Section 35, Township 39 North, Range 11, East of the Third Principal Meridian, (except that part thereof described as follows: Commencing at the Northeast corner of said premises; thence West along the North line of said premises, 450 feet; thence South along a line parallel to the East boundary of said premises, 500 feet; thence East on a line parallel with the North boundary of said premises to the East boundary line of said premises; thence North to the Place of Beginning), in Du Page County, Illinois.

ALSO

PARCEL 4:
The Northwest quarter of Section 2, Township 38 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois.

ALSO

PARCEL 5:
The East half of the Northeast quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois.

ALSO

PARCEL 6:
The East half of the Northwest quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, except the East 33 feet thereof, and excepting therefrom, that part of the East half of the Northwest quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, described as follows: Commencing on the East and West center line of said section at a point 33 feet West of the center of Said section; thence West along said center line, a distance of 265 feet; thence North on a line parallel to the North and South center line of said section, 986.26415 feet; thence East parallel to said East and West center line, 265 feet; thence South on a line parallel to and 33 feet West of said North and South center line, 986.26415 feet to the place of Beginning in Du Page County, Illinois.

ALSO

PARCEL 7:
The East 33 feet of the Northwest quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois.

ALSO

PARCEL 8:
The West half of the Northwest quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois.

ALSO

PARCEL 9:
That part of the East half of the Northwest quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, described as follows: Commencing on the East and West center line of said Section at a point 33 feet West of the center of said section; thence West along said center line, a distance of 265 feet; thence North on a line parallel to the North and South center of said section, 986.26415 feet; thence East parallel to said East and West center line, 265 feet; thence South on a line parallel to and 33 feet West on said North and South center line, 986.26415 feet to the place of beginning, in Du Page County, Illinois.

ALSO

PARCEL 10:
The West half of the Northeast quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, together with all buildings, and improvements thereon, containing 79.86 acres, more or less, in Du Page County, Illinois.

ALSO

PARCEL 11:
That part of the Southeast quarter of Section 34, Township 39 North, Range 11, East of the Third Principal Meridian, in Du Page County, Illinois described by beginning at the Southwest corner of the Southeast quarter of said Section 34 and running thence Easterly on the quar-

ter section line to a point located in said line, 700 feet Westerly of the Westerly line of the property now owned by the Association of Franciscan Fathers, extended South to said section line for a place of beginning; thence North to center line of the road known as 35th Street; thence Easterly along the center line of said road to the Westerly line extended Northerly of the property owned by the Association of Franciscan Fathers; thence Southerly along said Westerly line of the said property owned by the Association of Franciscan Fathers to the Southerly line of said Section 34; thence Westerly along said Southerly line of said Section 34 to the place of beginning, in Du Page County, Illinois.

4. Previous to 1962, Miller Builders had obtained most if not all of its institutional financing from Fairfield.

5. Miller Builders and Fairfield had developed a financing arrangement over the years whereby title to unimproved raw land was placed in Fairfield (usually through the device of a land trust) as a security device to secure Fairfield in its financing of Miller Builders. The parties also executed "take-out" agreements, pursuant to which Miller Builders would take title by conveyance from Fairfield of a pre-determined number of lots, on a stipulated time schedule and would pay Fairfield a given price per lot. On every such occasion—prior to the Healy Farm purchase—Miller had legal or equitable title to the property involved in such financing before Fairfield entered into financing arrangements.

6. Commencing in 1962, Miller Builders made a number of offers to S. A. Healy, owner of the Healy Farm, for the purchase by Miller Builders of that property. Included in Miller's plan to acquire the Healy Farm was a proposal to Fairfield that Fairfield participate, either by financing the entire acquisition or financing the portion of

the purchase that would ultimately be devoted to single family residences.

7. In April, 1965, representatives of both Miller Builders and Fairfield met with Healy at the Farm and an oral agreement was reached with S. A. Healy that involved the price of $6,500 per acre for the sale of land.

8. Prior to the negotiations which occurred in April, 1965, Miller Builders had arranged for the financing of the approximately 180 acres of the Healy Farm lying adjacent to Ogden Avenue to be developed for non-residential purposes, and had obtained a written agreement to that end from a mortgage banker, Salk, Ward & Salk, in the amount of $1,800,000 (approximately $10,000 per acre). This commitment was conditioned upon annexation of the property to the Village of Clarendon Hills.

9. Under the agreement between Miller Builders and Fairfield, title to the entire Healy Farm was to be taken in the name of Fairfield's title-holding trustee, and upon deposit in escrow of the $1,800,000 respecting the non-residential acreage, that acreage was immediately to be conveyed by the title-holding trustee to Miller Builders. Title to the residential acreage, which was to be financed by Fairfield, was to be retained in the name of Fairfield's title-holding trust as security, subject to the execution of a lot "take-out" financing agreement with Miller Builders of the type which had been developed and employed by the parties in their prior land purchase financing deals. The residential acreage was to be divided into approximately 1,400 lots and Miller Builders was to take out lots from year to year on a "take-out" schedule with all lots to be taken out within a 10-year period. On the disputed issues of fact in the financing arrangements above set forth it is the finding of this Court that the testimony of the witnesses for Miller Builders proved the position of Miller Builders by a clear preponderance of the evidence.

10. Under the agreement between the parties Fairfield was to receive a 10% interest factor on month-end balances outstanding or approximately double its investment over the 10-year take-out period. This agreement was predicated upon the belief that annexation to Clarendon Hills would be forthcoming.

11. While numerous attempts were made by the parties and their counsel to finalize details of the written "take-out" financing agreement which had been agreed upon in principle between Miller Builders and Fairfield, the written "take-out" agreement had not yet been completed for execution when the events which gave rise to this litigation took place.

12. The Purchase and Sale Contract with the Healys respecting the Healy Farm was executed on July 30, 1965, by Fairfield as "Buyer" and the sons of S. A. Healy as "Sellers" in their own right and as representatives of their father, S. A. Healy, who had become incapacitated in early May, 1965. The contract was voidable at the option of the purchaser if the purchaser failed to secure annexation of the subject property to the Village of Clarendon Hills.

13. Miller Builders, with the aid and cooperation of Fairfield proceeded with its preparation for the proposed annexation of the property to the Village of Clarendon Hills and retained various expert consultants. At the end of August, 1965, the annexation plan was informally presented to the Board of Trustees of the Village of Clarendon Hills. Shortly thereafter, the Village manager advised representatives of Miller Builders that, based on the informal presentation, a majority of the trustees was opposed to annexation.

14. After the parties learned that Clarendon Hills was opposed to annexation of the Healy Farm, they had no obligation to purchase the land from Healy; nor was their prior agreement still in effect for the following reasons:

a. Miller could not redeem the 180 acres of non-residential land from Fairfield because the commitment with Salk, Ward and Salk failed in the absence of annexation to Clarendon Hills. Moreover, no portion of the land was then zoned for non-residential use.

b. Without annexation to Clarendon Hills, the portion of the property intended for residential development remained zoned R-1 and R-2 and could thus not yield 1,400 residential lots.

c. Municipal sewer and water facilities—which the parties contemplated would have been supplied by the Village of Clarendon Hills—were not available on the subject property.

15. Each party to this suit, after the failure to secure annexation, believed that it could proceed to secure for its own the Healy land to the exclusion of the other. Neither party concealed from the other its intention to take all the land for itself or its belief that it had the right to do so at that juncture.

16. Fairfield waved the annexation provision of the contract and purchased the land from S. A. Healy in December, 1965. Fairfield thus preserved the *res* of the bargain, which all parties agree has increased markedly in value during the pendency of this suit. (The land has recently been appraised pursuant to agreement of the parties to this suit by an appraiser appointed by the Court at a conservative nine million dollars). Neither Fairfield nor the plaintiff, however, could in law or equity buy the land exclusive of the rights of the other in light of all the understandings set forth above.

17. A resulting trust accrued to the benefit of Miller Builders when Fairfield acquired the title to the Healy Farm, based upon the fact that the evidence shows that the relationship of borrower and lender existed between the parties. This resulting trust, which has been established by clear and convincing evidence, is in the nature of a mortgage and Fairfield has such an interest in the acquisition of the property.

18. Since the understanding of the parties was not reduced to writing and since annexation to Clarendon Hills never occurred, it is presently impossible to fashion a decree which encompasses the original agreement for financing between the parties.

19. Fairfield paid $4,171,193.42 as the purchase price of the Healy Farm and in the interim has paid the property taxes that have been assessed.

It Is Hereby Ordered, Adjudged And Decreed:

A. A resulting trust is decreed in the Healy Farm (more particularly described in Paragraph 3 above) in favor of Miller Builders, and defendant Fairfield Savings and Loan Association is hereby decreed to hold title to said Healy Farm as Trustee for the use and benefit of Miller Builders, Inc. subject to the terms and conditions set forth herein.

B. Fairfield Savings and Loan Association shall, and it is hereby ordered and decreed to, convey clear and merchantable title to the Healy Farm (as more specifically described in Paragraph 3 of this Decree) to Miller Builders, Inc., or its nominee, either (1) upon payment by Miller Builders, Inc., into the depository of this Court within 210 days from the entry of this Decree the sum of $4,171,-

193.42, plus interest thereon at the rate of 10% per annum compounded annually from December 6, 1965, to the time said sums are paid, plus an amount equal to the property taxes on the Healy Farm property heretofore paid by Fairfield Savings and Loan Association, or (2) pursuant to the terms of a financing program satisfactory to defendant Fairfield and to the Court, presented to the defendant and to the Court by Miller Builders and agreed to by the Court and defendant Fairfield within said 210 day period.

C. If Miller Builders has not paid the sums provided for in Paragraph (B) within 210 days from the entry of this Decree, or has not presented a financing program agreed to by defendant Fairfield and this Court within said period, a public auction of the property shall be held on a date to be fixed by the Court within 30 days of the expiration of the 210 day period. Fairfield shall have a first lien on the land and the proceeds of the sale in the amount of $4,171,193.42 plus taxes and interest as set forth in Paragraph B, supra. If no amount exceeding an amount necessary to satisfy Fairfield's lien is bid at said public auction, Fairfield shall retain title to the property and hold same free and clear of all liens and encumbrances of any nature whatsoever. Fairfield shall have the right to bid upon said land at the public auction.

D. This Court retains jurisdiction for purposes of implementing and enforcing this Decree.

Enter:

/s/ *William J. Bauer*
William J. Bauer

Date Nov. 4, 1969

70-80

UNITED STATES OF AMERICA

State of Illinois
Appellate Court—ss:
Second District

At a session of the Appellate Court, begun and held at Elgin, on the 7th day of December, in the year of our Lord one thousand nine hundred and seventy, within and for the Second District of Illinois:

Present—Honorable Thomas J. Moran, Presiding Justice
Honorable Mel Abrahamson, Justice
Honorable Glenn K. Seidenfeld, Justice

Howard K. Kellett, Clerk
Joseph C. Doring, Sheriff

BE IT REMEMBERED, that afterwards, to wit: On Dec 18 1970 the Opinion of the Court was filed in the Clerk's office of said Court, in the words and figures following, viz:

NO. 70-80
IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

Margaret E. Thompson,
Plaintiff-Appellant,

vs.

County Board Of School Trustees Of Du Page County, Illinois, Robert R. Kimbell, President, Merrill Gates, Ex-Officio Secretary And County Superintendent of Schools,
Defendants-Appellees.

Appeal from the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

Mr. Justice Abrahamson Delivered The Opinion Of The Court.

The plaintiff appeals from orders of the Circuit Court of Du Page County that dismissed her complaint and amended complaint for administrative review of certain decisions of the DuPage County Board of School Trustees on the grounds that she did not have standing to bring suit.

Community High School District Number 107 (Naperville) and Community High School District Number 99 (Downers Grove) had filed a joint petition to detach certain territory from District 107 and annex it to District 99 pursuant to Article 7 of the School Code. After a hearing on the petition, the Board of School Trustees directed the County Superintendent to enter an order to deny the joint petition on July 7, 1969. On August 14, 1969, the Board entered a further order to permit a re-

hearing on the petition and, although the record is not clear on this point, it appears that the petition was then granted. It is agreed that both orders are deemed final administrative decisions as defined by Section 1 of the Administrative Review Act. Ill. Rev. Stat. 1969, Ch. 110, par. 264) and subject to review.

The amended complaint was brought by the plaintiff as an "objector" at the public hearings and as a resident of an adjacent district that would be affected by the decision. It is alleged that the joint petition had been filed pursuant to a recommendation made by a group called the "South DuPage County Boundary Study Steering Committee" and was but a part of a comprehensive plan to change the boundaries of all school districts in southern DuPage County. The amended complaint further alleged

> "That on information and belief the agreed on boundary changes made commitments affecting the taxing ability, the bonded indebtedness, the equality of monies expended on education per pupil, zoning, town or village boundaries and real estate taxes in both School District Number 53, Butler, and School District Number 86, Hinsdale Township High School wherein plaintiff resides."

The amended complaint sought an administrative review of the decisions of the Board and a finding that certain sections of the School Code are unconstitutional. The case was originally brought directly to the Supreme Court but was transferred to this Court with a ruling that no constitutional questions were involved.

Section 7-7 of the School Code (Ill. Rev. Stats., 1969 Ch. 122, Sec. 7-7) provides for the review of final administrative decisions of the board of school trustees as follows:

> "The decision of the county board of school trustees shall be deemed an 'administrative decision' as defined in Section 1 of the 'Administrative Review Act' and any resident who appears at the hearing or any petitioner or board of education of any district affected may within 35 days after a copy of the decision sought to be reviewed was served by registered mail upon the party thereby apply for a review of such decision in accordance with the 'Administrative Review Act', and all amendments and modifications thereof and the rules adopted pursuant thereto . . ."

The right to administrative review is "limited and circumscribed by the statute or statutes authorizing such review." Stirniman v. County Board of School Trustees, 26 Ill. App. 2nd 245, 249.

The record does establish that the plaintiff did personally appear at the hearings before the Board and voice her objections to the proposed boundary changes and the procedures followed by the school authorities. It also appears that a certified copy of the decision of July 7 was furnished the plaintiff by registered mail and that notice was given to her of the order for a rehearing. The pleadings also establish, as we have seen, that plaintiff was not a resident of either District 107 or 99 but that she was a resident of District 86 at the time the decision was rendered.

The appellee contends that Section 7-7 limits the right of review of a decision involving a boundary change to a petitioner, a board of education of an affected district, or a resident of the territory directly involved in the change of boundaries. Section 7-6 provides, however, that at the hearing held pursuant to a petition for a change of boundaries ". . . any resident of the territory described in the petition or any resident in any district affected by the change of boundaries may appear . . . ." and object to the petition and offer evidence in support of the objections.

(Ill. Rev. Stats., 1969, Ch. 122, sec. 7-6). It would be inconsistent to permit a resident of an affected district to object at a hearing and offer evidence and then to preclude his right to a judicial review of the ultimate decision.

However, the amended complaint before us utterly fails to establish that the decisions of July 7 or August 14 in any way affected the districts in which the plaintiff resides. The allegations that the proceedings of the "Boundary Study Steering Committee" included "the intent of detaching further territory from school district 86 and possibly from school district 53 causing tax losses to both district . ." are far too vague and conjectural to establish the right to bring this suit. Actions brought under the Administrative Act are subject to the provisions of the Civil Practice Act (Ill. Rev. Stats, 1969, Ch. 110, sec. 277) and are subject to be stricken if they fail to establish a cause of action.

It also appears that the plaintiff has failed to join all the necessary parties as required by section 271 of the Administrative Review Act (Ill. Rev. Stats, 1969, Ch. 110, sec. 271). Those requirements are mandatory and the failure to join all parties "of record to the proceedings before the administrative agency . ." would of itself have been grounds for dismissal of the complaint. Babington v. County Board of School Trustees, 7 Ill. App. 2d 193, 194.

For the reasons stated, the order of dismissal entered by the trial court was proper and will be affirmed.

Judgment Affirmed.

Moran and Seidenfeld, JJ., concur.

Certificate of Howard K. Kellett, Clerk.

APPENDIX P

No. 73-376

In The

APPELLATE COURT OF ILLINOIS

Second District

(Filed May 21, 1975)

People Of The State Of Illinois Ex Rel. Margaret E. Thompson,

Plaintiff-Appellant,

vs.

County Board Of School Trustees Of Du Page County, Illinois, Merrill Gates, Ex-Officio Secretary And Superintendent, Educational Service Region, Ray Page, Superintendent Of Public Instruction, State of Illinois, Board Of Education, School District 53, Board Of Education, School District 57, County Board Of Supervisors Of Du Page County, Illinois,

Defendants-Appellees.

Appeal from the Circuit Court of the 18th Judicial Circuit
Du Page County, Illinois
No. 70-1204G
Honorable Philip F. Locke, Judge Presiding

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that the People of the State of Illinois on the relation of Margaret E. Thompson, the Appellant above named, hereby appeals to the Supreme Court of the United States from a final judgment of the Appellate Court of Illinois, Second District, affirming the judgment of the Circuit Court of the 18th Judicial Circuit, Du Page County, Illinois, entered as to fewer than all claims and parties in an administrative review proceeding

as adopted by the School Code, Chapter 122, Sections 7-6 and 11-6, Ill. Rev. Stat. 1971 & 1973, to review the validity of the statutes, the validity of the Appellate Court mandate allegedly entered on August 7, 1970, in Case No. 70-155 the validity of the organisation of Unit School District 201, the validity of the construction given the Administrative Review Act, entered in this administrative review proceeding on September 13, 1974.

This appeal is taken pursuant to 28 U.S.C. 1257 (1), (2), & (3) and 28 U.S.C. 2403.

Dated this 21st day of May, 1975

/s/ *Margaret E. Thompson*
Margaret E. Thompson
Appellant
Box 133
Hinsdale, Illinois 60521—323-3381

State of Illinois)
) SS.
County of Du Page)

AFFIDAVIT OF SERVICE

Margaret E. Thompson, being first duly sworn upon oath, deposes and says that she served the above Notice of Appeal to the Supreme Court of the United States upon:

John Bowman, State's Attorney, 207 Reber St., Wheaton, Il 60187

John Demling, 493 Duane Bldg., Glen Ellyn, Il 60137

by mailing first class, postage prepaid, from the United States Post Office Hinsdale, Illinois 60521, on May 21, 1975.

/s/ *Margaret E. Thompson*

Subscribed and sworn to before me this 21st day of May, 1975,

/s/ *Dorothy Irvine*
Notary Public

State of Illinois)
Appellate Court) ss:
Second District)

I, Loren J. Strotz, Clerk of the Appellate Court, in and for the Second District of said State, and keeper of the records and Seal thereof, do hereby certify the annexed and foregoing to be a true, full and complete copy of the Notice Of Appeal To The Supreme Court Of The United States, from a final judgment of the Appellate Court of Illinois, Second District, affirming the judgment of the Circuit Court of the 18th Judicial District, DuPage County, Illinois, in the case of People Of The State Of Illinois, Ex Rel. Margaret E. Thompson, Plaintiff-appellant v. County Board Of School Trustees Of DuPage County, Illinois, Merrill Gates, Ex-Officio Secretary And Superintendent, Educational Service Region, Ray Page, Superintendent Of Public Instruction, Et Al, Defendant-appellees, Appeal from the Circuit Court of DuPage County, Illinois, and assigned General Number 73-376 in this Court, and filed in my said office on the 21st day of May, A.D. 1975, as the same appears from the records and files in my said office now remaining.

In Witness Whereof, I hereunto subscribe my name and affix the Seal of said Court, at the City of Elgin, in said State, this 23d day of May, A.D. 1975.

/s/ *Loren J. Strotz*
Clerk of the Appellate Court,
Second Judicial District of Illinois.